IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 30.3.2005

Coram

THE HONOURABLE MR. MARKANDEY KATJU, THE CHIEF JUSTICE

and

THE HONOURABLE MR. JUSTICE F.M.IBRAHIM KALIFULLA

Writ Appeal No.2957 of 2002

Umesh Bhargava .. Appellant/Petitioner

versus

1. The Union of India
rep. by the Secretary,
Ministry of Home Affairs,
New Delhi.

2. The Director General,
Central Reserve Police Force,
R.K.Puram,
New Delhi-66. .. Respondents/Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in Writ Petition No.25487 of 2002 dated 18.7.2002.

for appellant : Mr. T.N.Sugesh

for respondents: Mr. V.Balasubramanian
Sr. Central Govt.
Standing Counsel

JUDGMENT

(Judgment of the Court was delivered by
The Honourable The Chief Justice)

Heard the counsel for the parties.

2. We have perused the impugned order of the learned single Judge dated 18.7.2002. The learned single Judge has dismissed the writ petition on the ground that the petitioner had earlier filed another writ petition being Writ Petition No.5620 of 2002 which was

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

disposed of by order dated 25.2.2002. The order dated 25.2.2002 only directed that the petitioner's representation be decided. Hence it was not a decision on merits and as such the order dated 25.2.2002 does not operate as res judicata. The principle of res judicata applies when there is a decision on merits, and not otherwise. Now that the representation has been decided, the petitioner has challenged the order deciding the representation. We therefore cannot see how the writ petition could have been dismissed on the ground that the petitioner had earlier filed a writ petition.

3. In view of the above, we set aside the impugned order and remand the matter to the appropriate learned Judge for a fresh decision on merits. The writ appeal is allowed. No costs. Post the writ petition in the first week of July 2005.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary, Union of India
Ministry of Home Affairs, New Delhi.

2. The Director General,
Central Reserve Police Force,
R.K.Puram, New Delhi-66.

3. The Section Officer, Writ Section, High Court, Madras.
[with a direction to Post the WP. In 1st Week of July 2005]

one cc to Mr.T.N.Sugesh, Advocate in SR 15004.

one cc to Mr.V.Balasubramanian & Associates SR.15077.

W.A.No.2957 of 2002

KSJ [co]

MK

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/